

APPROVED MINUTES  
CITY OF MILPITAS

Minutes:	Regular Meeting of Milpitas City Council
Date of Meeting:	March 15, 2005
Time of Meeting:	6:00 p.m. (Closed Session) 7:00 p.m. (Public Business)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

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**ROLL CALL**

Mayor Esteves called to order the regular meeting of the Milpitas City Council at 6:00 p.m. Present were Mayor Esteves, Vice Mayor Gomez, and Councilmembers Giordano and Polanski. Councilmember Livengood arrived at 6:45 p.m. but did not attend the Closed Session.

**CLOSED SESSION**

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following three items listed on the agenda:

1. **CONFERENCE WITH LABOR NEGOTIATOR**  
(Pursuant to Government Code Section 54957.6)  
Agency designated representatives: Charles Lawson and Cherie Rosenquist  
Employee Organizations: Protech, MEA, MSA, LIUNA, MPOA, IAFF, and Unrepresented Employees
2. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**  
(Pursuant to Government Code Section 54956.8)  
Property: Calvary Assembly of God – APN Nos. 092-37-044, 045, and 046  
Agency Negotiators: Mike McNeely and Greg Armendariz  
Negotiating Parties: City of Milpitas and Calvary Assembly of God Church  
Under Negotiation: Terms and Conditions for Acquisition of Property
3. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
(Pursuant to Government Code Section 54956.9[c])  
Initiation of Litigation  
Number of cases: (1)

Mayor Esteves adjourned the meeting to closed session at 6:01 p.m.

The City Council meeting reconvened at 7:00 p.m. with Mayor Esteves presiding and Vice Mayor Gomez and Councilmembers Giordano, Livengood, and Polanski present.

**CLOSED SESSION  
ANNOUNCEMENTS**

There were no Closed Session announcements.

**PLEDGE**

Members of Troop No. 92 led the Council and audience in the Pledge of Allegiance.

**MINUTES**

There were no minutes scheduled for approval.

**SCHEDULE**

Councilmember Livengood reported a Bay Area Water Supply and Conservation Agency (BAWSCA) meeting was scheduled for March 17, 2005, at 7:00 p.m. in Foster City, and on March 23, 2005, the BART Corridor Task Force would be meeting at 3:00 p.m. at Milpitas City Hall.

MOTION to approve the Schedule of Meetings as amended.

M/S: Livengood, Gomez.

Ayes: 5

**PRESENTATIONS**

Mayor Esteves read a proclamation declaring March 2005 as “Colorectal Cancer Awareness Month” and presented it to Carol Baker, a representative from the American Cancer Society and Government Relations Chairperson. Ms. Baker stated Colon Cancer was 90% preventable and asked “when are you going to prevent your Cancer from happening?”; going in and

getting the screening done provided a 90% chance that one would not get Colon Cancer and urged everyone to start getting it done at the age of 50.

## **CITIZENS FORUM**

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks, including any visual or technology-assisted presentations of any kind, be limited to two minutes or less, and noted that the City Clerk would be using the timer and when the red light at the podium came on, two minutes would be up.

Jacquelyn Woodworth, a Milpitas homeowner since 1988, stated she was presently employed at Terrace Gardens as receptionist and read a statement stating travesty was an understatement for the actions taken against the Board of Directors of Terrace Gardens at the last Council meeting. Ms. Woodworth asked if had occurred to any of the Council to confirm allegations prior to making a public spectacle of them; one member of the Council had first-hand knowledge of the situation; she hoped that when this was settled and the Council was better informed, that their apologies would be half as public as the allegations. Ms. Woodworth suggested the Council visit the property, partake of an evening meal, and chat with an arbitrary selection of residents rather than forming an opinion from information from a small vocal minority.

## **ANNOUNCEMENTS**

Acting City Manager Charles Lawson announced this was the last Council meeting for City Clerk Gail Blalock, who was retiring, and also Human Resources Director Cherie Rosenquist, who announced earlier in the day that she was moving on to another city, and he wanted to take this opportunity to thank them both for their service to the City of Milpitas.

Mayor Esteves said he appreciated and congratulated Gail Blalock on her new endeavor and also to the HR Director Cherie Rosenquist to her new endeavor; and thanked both for their services in our beautiful City of Milpitas.

Vice Mayor Gomez requested the meeting be adjourned in memory and honor of Milpitas Police Officer Steven Thompson.

Mayor Esteves announced the current Commission openings and encouraged residents and volunteers to fill out application forms; congratulated staff and the City for once again being named Tree City USA by the National Arbor Day Foundation, honoring a commitment to the community forest (and it was the third time Milpitas had received this National recognition); he was proud to represent Milpitas in a parade in Cupertino entitled Asian American Lunar New Year's Celebrate Unity; the Knights of Columbus had selected its Citizen of the Year as well as the Police Officer of the Year and the Firefighter of the year, and would be honoring these outstanding citizens of Milpitas on March 19, 2005, at the Community Center; and the Mayor's State of the City address, sponsored by the Milpitas Chamber of Commerce, would take place on March 29, 2005, at 6:00 p.m. in City Hall.

## **ANNOUNCEMENT OF CONFLICT OF INTEREST**

Acting City Attorney Richard Pio Roda inquired if any member of the City Council had a Conflict of Interest to disclose it for the record. There were none.

## **MOMENTS OF REFLECTION**

Mayor Esteves stated this was to do with the City's Ethics Program and inquired if there were any comments from the Council.

Councilmember Polanski said she wanted to take the moment to reflect on the City's City Clerk Gail Blalock, who had been serving Milpitas as City Clerk for almost 22 years, and reflecting on the City's Code of Ethics, commenting that Gail had probably upheld the Code to the highest degree in all of her years serving as Milpitas' City Clerk; many were going to miss her, but she did know Gail was going to enjoy her endeavors as she leaves Milpitas, and thanked her very much for all of her service to Milpitas as it was greatly appreciated.

Councilmember Livengood said he was remiss in not chiming in when the City Manager announced these retirements earlier, and following on Councilmember Polanski's sentiments, said Gail was one of those people who was what he called an unselfish employee, she always was looking out after everybody else, helpful at all times; when he was Mayor, she was

incredibly helpful to him, when she was a fairly new City Clerk back in the mid 80s, and she did a wonderful job, and he wished her all the best in her retirement, hoped she and Tom would have a wonderful time, and asked her to come back and see everyone. Councilmember Livengood further stated he didn't have the opportunity to work with Cherrie Rosenquest you for long, but wished her all the best in her new endeavor as it was exciting for her.

## **AGENDA**

City Manager Lawson requested item 16 (Resolution regarding Animal Regulation Appeal Board and Ordinance No. 54.24) be removed from the agenda and item 18 (Resolution Amending the Classification Plan) be moved up as it was continued from the last Council meeting. Mayor Esteves suggested item 18 be considered just ahead of item 7. Vice Mayor Gomez requested item 8 (Final Ethics Report) be deferred to another meeting when the agenda contains fewer items.

MOTION to approve the agenda as amended by the removal of item 16, moving item 18 to be heard just before item 7, and deferring item 8 to a future agenda..

M/S: Livengood, Giordano.

Ayes: 5

## **CONSENT CALENDAR**

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar.

Acting City Manager Lawson reported staff would like to add item 11 (O'Toole Elms) to the Consent Calendar with the recommendation to approve Concept D as the Council had been provided with additional information. Councilmember Polanski said she objected to placing item 11 on the Consent Calendar. Mayor Esteves said it would remain on the open agenda for discussion.

Councilmember Polanski requested item 17 (Open Government Ordinance) be removed for discussion.

Mayor Esteves asked questions concerning item 15 (Uniform Fire Code Annual Training Conference) item 21 (Street Resurfacing Project), item 23 (Agreement Amendment with GSS Consulting), and item 27 (Amendment Agreement with Mary Krost & Associates) and said he wanted to share his comments but would not be removing any item from the Consent Calendar.

MOTION to approve the Consent Calendar, items with asterisks on the agenda, as amended by the removal of item 17, in accordance with the staff recommendations.

M/S: Gomez, Giordano.

Ayes: 5

### **\*3. Program Cuts in the Proposed Federal Budget**

Approved the authorization of the Mayor's signature expressing the opposition to the proposed elimination of the HUD Community Development Block Grant Program being proposed by the Bush Administration.

### **\*6. Arts Commission 2005 Work Plan**

Approved the Arts Commission's Work Plan.

### **\*12. Site Modifications 1594 Pebble Beach Court**

Approved Site and Architectural Approval Amendment No. SA2004-123 based on the findings and recommended special conditions.

### **\*13. Berryessa Creek Project**

Authorized the Mayor to send a letter on behalf of the City Council to The Honorable Mike Honda in support of requesting additional funding for the Berryessa Creek improvements.

### **\*14. Edward Byrne Memorial Justice**

1. Approved the Memorandum of Understanding entitled "Interlocal Agreement, Agreement Between Cities and the County of Santa Clara, 2005 Byrne Justice

<b>Grant (JAG) Program</b>	Assistance Grant (JAG) Program Award.” 2. Authorized the City Manager to sign the Interlocal Agreement.
<b>*15. Uniform Fire Code Association Annual Training Conference</b>	Approved out of state travel request for Captain Paul Inouye to attend the Uniform Fire Code Association Annual Training Conference.
<b>*19. Adopt Resolution of Local Support for SB 680</b>	Adopted Resolution No. 7509 communicating the local support of the elected officials to the State Legislature for SB 680 proposed by Senator Simitian.
<b>*20. Piedmont Road Bike Lane and Sidewalk Improvements at St. John’s Cemetery (Project No. 4214)</b>	Adopted Resolution No. 7510 granting initial acceptance of the project subject to the one-year warranty period and reducing the faithful performance bond to \$39,569.12.
<b>*21. 2004 Street Resurfacing Project (Project Nos. 4182/4223)</b>	Adopt Resolution No. 7511 granting initial acceptance of the project subject to the one-year warranty period and reduction of the faithful performance bond to \$135,106.25.
<b>*22. Quint &amp; Thimmig LLP</b>	Authorized the City Manager to execute agreement with Quint & Thimmig LLP for legal services related to the formation of a Community Facilities District, subject to approval as to form by the City attorney.
<b>*23. GSS Consulting</b>	Authorized the Acting City Manager to execute an agreement amendment with GSS Consulting for continued project management and coordination services on various Capital Improvement Projects in the amount not to exceed \$119,600.00, subject to approval as to form by the City Attorney.
<b>*24. Coyote Creek Trail, Reach 1 (Project No. 4206)</b>	Authorized the Interim City Manager to execute an agreement with Hill Associates for consulting services for Coyote Creek Trail, Reach 1, Project 4206, in the amount of \$23,645.00, subject to approval as to form by the City Attorney.
<b>*25. Grout Injection on the Mechanic’s Pit at Fire Station No. 1</b>	1. Rejected the bid from Rainbow Waterproofing and Restoration (\$19,301.00). 2. Rejected the bid from The Pressure Grout Company (\$22,150.00). 3. Authorized the Interim City Manager to execute a contract with Ashron Construction & Restoration, Inc. to perform the grout injection service in the amount of \$27,525.00 including tax, subject to approval as to form by the City Attorney.
<b>*26. Krost &amp; Associates</b>	1. Approved the amendment to the agreement with Mary Krost & Associates to provide safety training to City of Milpitas employees, subject to approval as to form by the City Attorney. 2. Authorized the expenditure in the amount not to exceed \$19,779.00.
<b>*27. Street Rehabilitation (Project Nos. 4200, 4182, 4222, and 8149)</b>	Authorized the City Engineer to execute the Balancing Contract Change Order for Fanfa, Inc. in an amount not to exceed \$111,342.91 for Singley Area Street Rehabilitation, Phase III (Project No. 4200); Hamilton Area Street Resurfacing (Project No. 4182); Marylinn Drive sidewalk (Project No. 4222); and Sports Center Master Plan Improvement, Phase I (Alley Way) (Project No. 8149).
<b>*28. South Bay Water Recycling Program</b>	Authorized the City Engineer to execute a change order in the amount of \$19,828.48 to Preston Pipelines for South Bay Water Recycling Program (SBWRP) Infill Phase M-2, M-3 (Project No. 6093).
<b>*29. Police Department Ammunition</b>	Awarded the bid for the Federal ammunition to San Diego Police Equipment Co. in the amount of \$16,526.15 and for the Winchester ammunition to Adamson Industries in the amount of \$8,930.63.

**\*30.  
Aquatic Eco System  
Aeration System**

Awarded the bid for the purchase and installation in the Hall Park lagoon at Abbott Ave. and LaHonda Dr. of an Aquatic Eco Systems Aeration system No. GL96-230 to North Bay Ponds and Water, and authorize the City Manager to execute a contract with North Bay Ponds and Water in the amount of \$8,925.14, subject to approval as to form by the City Attorney.

**\*31.  
Miscellaneous Vendors**

Approved the following purchase requests:

1. \$5,231.72 to VMI, Inc. for a 40" LCD Mitsubishi Monitor. The monitor is used to support the 911 dispatch center as part of the GIS map display system used to dispatch fire and police emergency calls. (Funds are available for this purchase from CIP project 3389 "Public Safety Technology").
2. \$5,585.00 to Medtronic Physio-Control Corporation for a one year technical service and support agreement for the seven (7) LIFEPAK 500 automatic defibrillators and five (5) LIFEPAK 12 manual defibrillators currently in use by the Fire Department. (Funds are available for this purchase from the Fire Department operation budget).
3. \$74,793.98 to Advanced Traffic Products for the purchase of fifty-five (55) 3M Opticom – 2 Channel Phase Selector Cards for emergency vehicle traffic signal control. The City of Milpitas was one of the first cities in the Bay Area to install 3M brand Opticom traffic signal preemption controls. The equipment allows a police or fire emergency vehicle to temporarily disrupt traffic signal operations by forcing the traffic signal to turn green for the direction of the approaching emergency vehicle thus reducing the response time to incidents. The Opticom system is installed on every police and fire vehicle as well as every City maintained traffic signal. The original control cards deployed 15 years ago need to be upgraded to provide encrypted signal capabilities that prohibit a non-emergency response vehicle from preempting the traffic signals.
4. As the City's mutual aid partners have already purchased the newer Opticom technology, the upgrade will allow the City to remain compatible and be able to render and receive mutual aids. Advanced Traffic Products is the sole authorized 3M distributor of this product in seven (7) western states including California. This type of sole source purchase is authorized by Municipal Code section I-2-5.03-4. (Funds are available for this purchase from CIP project 8166 "Traffic Signal Preemption System" and CIP project 4167 "Traffic Signal Modifications").

**PUBLIC HEARINGS**

**1.  
Introduce Ordinance No. 124.37**

Acting Planning & Neighborhood Director Tambri Heyden reported that since the December 21, 2004, Council meeting, the Sign Code Task Force had met three times to achieve greater consensus and address a new issue that had been raised by the Real Estate industry; three changes had been added to the Ordinance since the Council saw it last in December with the first change being to the definition of individual violations, the second change required a written notice for the first offense of an individual violation after which subsequent offenses would not be noticed, and the third change was the abatement of life safety hazards. Ms. Heyden presented a summary matrix of proposed enforcement remedies for signs based on the type of violation, location, and violation severity.

Ms. Heyden further reported that the Task Force was proposing continuation of quarterly Task Force meetings that would extend for a year to assist with the Outreach Program, to provide input on the materials staff developed in the Outreach Program, and to monitor compliance; and the Task Force would also look at the Sign Code to determine if any fine tuning adjustments were needed, as well as the Political Sign section of the Code.

Ms. Heyden, addressing the new issue that was raised regarding eliminating the current 3-ft. setback from the curb for real estate signs in the private right-of-way, said the Task Force was proposing eliminating the requirement, subject to several provisions which included keeping clear of driveways, curb returns, some Light Rail zones, all handicapped access areas, and a

15-ft. distance from the curb return in the intersection; the last piece of that proviso prohibited attachment of signs to public property such as street trees, traffic signs, utility boxes, utility cabinets, benches, hydrants, structures of that kind in order to prevent damage as well as safety issues; the Task Force also decided to put the prohibition in the Ordinance and reflect it so the Council could make the decision; the Planning Commission and the Economic Development Commission also supported the prohibition. Ms. Heyden noted that the Ordinance had been reviewed in terms of CEQA provisions and was found to be exempt as there were no significant impacts on the environment.

Ms. Heyden pointed out a typo in the Ordinance under Administrative Citations (30-9.04 C3) on page 26 addressing the third offense, it should read 3<sup>rd</sup> and subsequent offenses; addressing appeals, stated when the Neighborhood Beautification Ordinance was proposed to the Council, the issue of appealing a decision by the City's Administrative Officer was raised and the Council at that time decided it did not want to take on the appeals; the Ordinance before the Council, upon request of the Task Force, was that a decision by the City's Administration Officer would go to the City Council; and, the correct number of the Ordinance was 124.27 NOT 124.37.

Mayor Esteves inquired if an appeal would be heard at a special session of the Council. Ms. Heyden responded it would be a regular Council agenda item, she did not foresee there would a lot of them; and there had not been a single question in the five years the NBO had been in place.

Mayor Esteves inquired if off-site signs, especially those near the freeway and used jointly, would be allowed. Ms. Heyden responded, yes, that right now in the Sign Code, off-site signs were prohibited; the proposal would allow them, subject to a Sign Program being proposed; and the terminology would be, the Joint Sign Program.

Mayor Esteves, addressing the Temporary Sign Registration, inquired if the Task Force had any objections. Ms. Heyden responded staff had provided the form that had been developed and there had been no Task Force objections.

Mayor Esteves reiterated that the major change was the deferment of the pro-active process of looking at violations. Ms. Heyden responded that the pro-active proposal was not before the Council tonight.

Councilmember Giordano inquired as to when the discussion of political signs was made. Ms. Heyden responded the issue had been raised at the last Task Force meeting held prior to the December 21, 2004, Council meeting, and was part of the presentation made to the Council in December.

Councilmember Livengood inquired if a homeowner who had a corner lot would be restricted to one campaign sign on the lawn. Ms. Heyden said this ordinance before the Council did not make any changes to the Political Sign section. Councilmember Livengood, addressing private property, inquired if political sign restrictions were included. Ms. Heyden responded, no, it was a separate section under the Ordinance.

Vice Mayor Gomez, referring to pro-active, said he understood the Council had not been interested in going that route. Ms. Heyden responded staff misunderstood and had the impression that with the quarterly Task Force meetings, a recommendation could be made at some later date when the Outreach was completed and the Ordinance had time to take effect and residents and businesses became aware of what the expectations were.

Vice Mayor Gomez, addressing the 15-foot distance from the curb return and prohibiting real estate signs on the corner curb, inquired if it was because of an ADA issue. Ms. Heyden responded, yes. Vice Mayor Gomez inquired if an ADA ramp did not exist, did the ADA issue still exist. Ms. Heyden explained it was not only ADA, it was also sight distance; the Task Force felt that 15 feet back was adequate distance, allowing someone to make a right-hand turn without obstructing their line of sight.

Mayor Esteves opened the public hearing and invited comments.

A man said he represented a storage business in Milpitas on South Main Street, which was part of a management company representing 46 different stores across the United States, and stated he was here representing his company based out of Georgia; as part of the company's advertising protocol, which was an aggressive structure to bring business to the City of Milpitas and upgrade the reputation of the town and the businesses in it; this information was brought to him on Friday; and questioned if there was a location - of something of more of a layman's terms - that could be approached to the businesses and people in the Community where they could understand this; as far as new residents, he had just relocated with this company management from Sacramento as recently as January and was at a loss for this information; although, other than the fact that it seemed to have great restriction on the advertising market structure, the Storage facility had small signs and balloons and advertising marketing where it wanted to go aggressively at the consumer and bring business into this town; inquired if there was a place to find this information, and at that time, also find the protocol as to how to address it to the City Council.

Acting City Manager Lawson said Ms. Heyden and the Planning staff would work with the gentleman off line.

Heidi Wolf-Reid, a member of the Task Force, said they were a little confused on the 15 ft. setback; they had a lot of discussion on the 4 feet, which was an ADA issue; and other than that, she thought they had gone over most of the rules and were pretty happy with it; however, she was unsure right now after the discussion here what she wanted to do. Ms. Wolf-Reid said one of the reasons the review of the Administrative fine was done was because there was no enforcement mechanism; there was now enforcement mechanism added (the abatement process) and she was not sure why two mechanisms were needed when there was none before; she thought adding the abatement process to the Ordinance should take care of any problem; and she felt that Outreach and information for new businesses and existing businesses, particularly the ethnic communities, was quite important

MOTION to close the public hearing.

M/S: Giordano, Gomez.

Ayes: 5

Vice Mayor Gomez, addressing the 15-foot setback from the curb return and a 3-ft. real estate sign being an obstruction to a line of sight, inquired if all real estate signs were 3-feet tall "A" frame signs. Ms. Heyden responded her understanding from the Real Estate Industry was that a 3-foot "A" frame sign was a prototype. Vice Mayor Gomez stated he had concerns with Administrative fines and sign attachments to a City pole, and did not want to see anything that could be deemed restrictive.

Councilmember Polanski said she had no problem with the 15-feet from the curb line requirement; she thought it made sense both for the line of sight and ADA compliance; she had difficulty with the other types of signs; and believed the City and the Council needed to look at being pro-active for everything

Councilmember Giordano congratulated Ms. Heyden and the Task Force commenting that this was a lot of work and a tremendous effort. Councilmember Giordano said she wanted to keep the community as business friendly as possible; would like to eliminate Administrative fines; felt the abatement process worked and did not want to penalize new businesses; was concerned about being able to determine where the 15-foot setback was; would support having a limited number of signs on private property; and would not want to limit private home owners' right to free speech.

Ms. Heyden requested clarification from the Council stating she thought there was a misunderstanding of the Summary Abatement; if the Administrative Citation powers were

removed, Summary Abatement for signs could not be enforced; and the only powers for abatement were under the NBO.

Mayor Esteves said he agreed with the use of the abatement process; liked off-site signs for businesses; and was comfortable requiring temporary sign registration.

Vice Mayor Gomez, commenting on Administrative fines and implementing a thorough education policy, stated he would like to see how the education process dealing with signs worked before forming an opinion; he was impressed with the number of sign issues staff dealt with and how few problems were encountered without having an Administrative fine process; and referencing political signs, expressed concern about restricting the number of political signs on private property. Vice Mayor Gomez asked the City Attorney if changes were going to be made to the ordinance, how would that be handled and would the Council adopt the ordinance today or would it have to be brought back with the changes. Acting City Attorney Richard Pio Roda said he thought the ordinance could be adopted today with the changes.

Ms. Heyden read the title of Ordinance No. 124.27.

MOTION to waive reading beyond the title.

M/S: Gomez, Livengood.

Ayes: 5

MOTION to introduce Ordinance No. 124.27 with removal of the Administrative penalties and removal of prohibitions regarding real estate signs being attached to the poles.

M/S: Gomez, Giordano.

Mayor Esteves said if the Administrative fines were taken out, there could not be an abatement process and inquired as to how the violations would then be handled. Ms. Heyden responded if the entire Administrative Citation section was taken out, it would include the Summary Abatement procedures. Mayor Esteves inquired if it were violated and it was a safety hazard, what would be done. Ms. Heyden said she would defer to the City Attorney; as she did not know if staff would have the ability to do anything. Acting City Attorney Pio Roda said if the Sign Ordinance did not have any specific Administrative fine requirement, the fines would be eliminated and then any of the other provisions that related to the removal of the signs would apply because of public safety to the public property.

Ms. Heyden inquired if it was the Council's desire to remove the ability to levy fines for violations and still have enforcement.

Vice Mayor Gomez said he would like to take out the Administrative fine process.

Ms. Heyden suggested that since staff needed to look at the language very carefully, possibly the first reading could be postponed.

Councilmember Giordano inquired what process staff used for enforcement. Ms. Heyden responded fines and Summary Abatement were used if a violation fell under the NBO; however, signs did not fall under the NBO; signs that fell under the NBO included lawn parking, converting a prior lawn to paved area, accumulation of garbage and debris.

Vice Mayor Gomez said he did not have a problem with placing language in the Ordinance giving staff authorization to remove or confiscate signs placed on City trees or light posts; however, he was concerned about imposing Administrative fines.

The Acting City Attorney clarified the Council's motion was to eliminate any fines connected with the offending signs but be able to remove them if they presented some sort of safety hazard; he suggested the Council go through the Ordinance again. Ms. Heyden agreed as she was concerned about the Summary Abatement; she did not believe staff had the ability to use



Summary Abatement powers that were in the NBO for sign violations. Mayor Esteves agreed that if there was no abatement process, you would not be able to even remove the signs.

Neighborhood Services Specialist Gloria Anaya clarified that there was a process in place for any sign blocking ADA access; if noting else was added to the current Sign Ordinance, staff could confiscate the signs and charge the owner a \$10 fine to reclaim the sign. Ms. Heyden reiterated that staff would not have the ability to use Summary Abatement for violations on private property.

Vice Mayor Gomez said he had no problem if staff wanted to bring this back in a couple of weeks with recommendations and for discussion.

Councilmember Livengood expressed concern that the fines were a little high, he thought it could be done without the actual fine, and staff needed to make sure the Ordinance reflected that. Ms. Heyden said she thought staff understood that Vice Mayor Gomez and Councilmember Giordano were suggesting staff eliminate the ability to levy fines regardless of the fine amount. Councilmember Livengood inquired if it were possible to have all the abatement of the signs, all the other parts of this Ordinance, but not have a fine attached. Ms. Heyden said staff felt that could be done, but felt there would be limited situations where the Summary Abatement could be used, especially for severe life safety hazards where staff cost would be incurred to take care of such a violation.

Councilmember Livengood inquired if an abatement process could be placed in the Ordinance without having the particular fines listed in Section C. Acting City Attorney Pio Roda confirmed that could be done.

Councilmember Giordano commented she was looking at being able to put some teeth into the Ordinance and be able to make sure that everything was adhered to, but without the actual fines.

Mayor Esteves, referring to Councilmember Livengood's suggestion, felt that reducing the penalty or fine, or increasing the penalty if they don't comply, with a longer number of days (i.e., 30 days or 60 days) would be an incentive; and suggested staff iron out the technicalities of the abatement process and bring the Ordinance back at the next Council meeting.

Ms. Heyden requested clarification on what it was that staff was going to bring back to the Council. Mayor Esteves responded reduce the amount and also the number of days of non-compliance; give them more time, but have a time limit. The Acting City Attorney requested clarification that the Council desired a sliding scale, increase the penalty, and the number of days it took to close the violation. Mayor Esteves said that would be his suggestion.

Vice Mayor Gomez commented that both scenarios were being looked at - no fines and lower fines and then increasing them as time goes on. Ms. Heyden said that was what staff was hearing.

Ms. Heyden suggested postponing the hearing to the April 5, 2005, Council meeting. Mayor Esteves noted the hearing was closed; if another amended ordinance was presented, would the Council be required to hold another public hearing. Ms. Heyden said it might have to re-advertise. Mayor Esteves advised staff to re-advertise again to get public comments. The Acting City Attorney concurred.

There was no vote on the motion.

## **JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

### **RA1. CALL TO ORDER**

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:24 p.m.

**RA2.  
ROLL CALL**

Present were Mayor Esteves, Vice Mayor Gomez, and Agency/Councilmembers Giordano, Livengood, and Polanski.

**RA3.  
MINUTES**

There were no minutes scheduled for approval.

**RA4.  
AGENDA**

MOTION to approve the agenda as submitted.

M/S: Polanski, Gomez.                      Ayes: 3                      Absent: 2 (Giordano, Livengood)

Councilmembers/Agency Members Giordano and Livengood were out of their seats when the vote was taken.

**RA5.  
LIBRARY DESIGN  
PROGRESS REPORT**

Projects Manager Mark Rogge reported the Library design was halfway through the Schematic Design Phase, and the project was on schedule and on budget. Mr. Rogge presented layouts of the first and second floors and entry ways and described the Market Place where all the most popular items in the library that people might want to come to immediately. Mr. Rogge said staff was working on other things that might be seen in the lobby, such as a little café area and market place area, and staff was also working on the exterior elements of the building. Mr. Rogge also presented an update on the garages reporting that five proposals for the MidTown East and MidTown West parking garages were received, all five were interviewed, and Chong Partners was selected; staff was in negotiation with them and would be bringing that to the Council probably at the next meeting.

MOTION to note receipt and file the progress report on the Library design.

M/S: Livengood, Gomez.                      Ayes: 5

**RA6.  
PUBLIC ARTS POLICY  
FUNDING  
RECOMMENDATIONS**

Finance Director Emma Karlen reported on February 15, 2005, staff proposed refinement of the public arts policy and received direction from the Council to meet with the Council CIP Subcommittee, the Council Finance Subcommittee, and the Arts Commission for recommendations on the application of the 1.5% formula and provide a better definition for eligible CIP projects. Ms. Karlen said a major project was defined as projects that add value or increase the value to the City and were not intended to be repair and maintenance in nature; the 1.5% formula would also apply to actual CIP expenditures instead of using the budget; the main reason was because sometimes when a project was finished under budget, the money was usually re-appropriated to another project; therefore, this was more accurate funding and not double accounting for it.

Councilmember Giordano said a question was raised by one of the Alliance for the Arts members if actual expenditures for a project (for example a \$900,000 project) exceeded the \$1 million threshold, would there be some way to guarantee that the project would be charged the 1.5%? Ms. Karlen responded that could be included if it exceeded the threshold because it looked at actual expenditures versus the budget.

Councilmember Polanski inquired what was the reasoning for the \$1 million threshold versus the discussion for the restrictive projects or grants as well as taking them out. Ms. Karlen said she thought the \$1 million threshold was just a recommendation that had been suggested by the Finance Subcommittee to look at; there were many smaller projects that were under that threshold that were not intended to be major CIP projects.

Vice Mayor Gomez, speaking to the \$1 million threshold, said at the last meeting, the one thing Councilmember Giordano and he noticed was that there was clear consensus, at least from the majority of the Council, that they wanted this to apply to all major Capital Improvement projects; and when he and Councilmember Giordano met, they looked at the CIP projects and for the most part, most of them cost more than \$1 million and that was where the number came from; what they wanted to avoid having happen, because the current definition stated repair and maintenance, questions later on as to whether construction of a new traffic signal or construction of new ADA ramps would qualify.

Councilmember Giordano concurred with Vice Mayor Gomez stating that they wanted the policy to be self-generating, self-funding; she was also concerned about the issue of maintenance of the art projects that there was not enough participation from the Alliance for the Arts group, and that was the reason for increasing it to four members from the Alliance on the Public Arts Committee.

Councilmember Livengood said he would prefer to emphasize what the Council had agreed upon and the significant impact that would have on public art in the City; he thought the 1.5% was a very strong number and showed a strong commitment on behalf of the Council; he thought the memo from Vice Mayor Gomez and Councilmember Giordano outlined some very important additions the Council hadn't gotten into, but it did serve as a reminder that there was going to be a framework associated with this. Councilmember Livengood thanked everybody who worked on this and said he thought the end project was going to be a dramatic improvement for Milpitas.

Mayor Esteves said he also wanted to mention that he thought one of the Arts Commission goals was to pursue grant writing, fund raising, and sponsorship to continue to seek more funds for public art.

Bill Foulk, Arts Commission, thanked the Council and said he echoed Councilmember Livengood's comments about how far this had come; it was encouraging to see that there was going to be a policy that would fund the arts in a significant way. Mr. Foulk further stated the only comment he had would be in regard to the one issue that seemed to be in conflict, and that was the idea of a \$1 million threshold; the idea of the \$1 million threshold came to him as a surprise, he wasn't sure why it was proposed, and thought it was a potentially harming issue that could make it so that there was very little funding for the arts during those years when we are not putting any major projects through. Mr. Foulk said he really didn't see a reason for a \$1 million threshold and would like to be able to see funding to continue even during the years when major project were not being put out.

Julie Cherry thanked the Council on behalf of every person who drives through the City, lives in the City, works here, or even visits because she really believed that this push for public art was going to make a big difference in Milpitas and the fact that each and every one of the Council was supportive of the community being enhanced through art. Ms. Cherry said she had come to all the meetings and had done quite a bit of research in public art policies, and restrictions on CIP funds; had evaluated 21 different cities and had a grid; what she had learned about putting these thresholds of \$1 million - there were 3 of the 21 cities that did that of the ones she evaluated - Denver, New York City, and Mountain View, CA - and it seemed to her in looking at the history of their public art policies - they don't start out with a threshold, they start out with a policy that is that the city is going to show support of public art through providing a percentage of their budget in their CIPs for public art, and then as that program grows, and as the public art portfolio grows, they begin to move their policy onto the private sector as well; so, as businesses come in, then they begin to ask for contributions from businesses to this fund; and as that contribution raises, the City's contribution lessens through putting on these thresholds; and she would envision that the City steps forward and shows its commitment to doing this and models for the businesses coming in that this is something that is important to them, and eventually when the portfolio was large enough, then you can begin to move this financial contribution onto your private section; and at that point, you raise the thresholds and lower the amount that the City provides into the fund; some of the cities she evaluated had a \$50,000 threshold, \$500,000, and \$250,000, and \$300,000, the rest did not have any thresholds.

Vice Mayor Gomez said with respect to the threshold, there were a lot of questions as to what was going to happen in the future, and he was willing to give this a few years so that the Council could look at the CIP at a later date and see how it applied to later projects; he was willing to defer that but did want it spelled out in the ordinance simply because he did not want this tug of war going on later as to what projects were going to be repaired and maintenance and what projects the 1.5% could be applied to.

MOTION to approve the staff recommendations regarding the Public Arts Ordinance and direct the City Attorney to develop a Public Arts Ordinance consistent with staff recommendations as well as the following statement of purpose and additional guidelines provided in the memo, with the exception of item 1 (the \$1 million threshold) and that that be spelled out in the ordinance and be re-evaluated within three years.

M/S: Gomez, Livengood.

Councilmember Giordano said she would love to concur but felt she had compromised and had come a long way to what was developed tonight; she would support the motion with a \$1 million threshold as she believed the placement of art was for large projects. Councilmember Giordano further stated she would be voting against the motion based on that alone; if the \$1 million threshold was included, she would vote for it.

Mayor Esteves said he felt the motion was responsible, anything could be reviewed at any time, and thought three years was generous, and he would be supporting the motion.

Robin Hays, Arts Commission, said at the very first meeting that they had about the percent to the arts; they talked about trying to get things going, get things jump started, and one of the ways might be buying things that were reasonable and that are mass produced that are art; this to her sounded like it could be limiting that; she was not saying that they might not do that, but thought it could be a problem and could limit some opportunities. Ms. Hays stated she thought that if you have to always have original works of art, you would be getting so much less for the money; and if we have all original works of art, the cost was going to be 20 times more than if mass produced pieces were used, or even medium produced pieces; but if you would say everything had to be an original piece of art, we're going to get like 3 pieces where we could maybe get 30. Vice Mayor Gomez inquired what were the examples of pieces of mass produced that the Art Alliance had purchased in the past or something that had been done in the past in Milpitas. Ms. Hays responded the Arts Alliance had commissioned the pieces and she did not believe any of the items that had been used were mass produced.

Julie Cherry again addressed the Council commenting that the details would go into the ordinance and were not necessarily something that would have to be hashed out or discussed or even considered in the vote this evening; as far as the public art pieces, the Alliance did commission work and that was because they worked with the neighborhoods to have them design an idea of exactly what they wanted.

Bill Foulk again addressed the Council saying he appreciated Vice Mayor Gomez's efforts in trying to define what would be acceptable and not acceptable; but from the point of view of the Commissioners and the volunteers that were going to be working on these recommendations, it almost felt like they weren't being trusted; he thought they needed to be able to sit down as the new Committee for the Arts and have some freedom to decide what would be the best for the City. Mr. Foulk cited a Minute Man statute as a very nice piece of art that could very easily be purchased. Mr. Foulk said he didn't want the committee's hands to be tied with definitions of what's acceptable and what's not; the bottom line was they would bring their recommendations to the Council and the Council can turn them down if they think they are not appropriate.

Robin Hays again addressed the Council saying they would certainly go out into the community and find out what they feel is art and make sure the pieces are going to be well received before bringing them to the Council.

Mayor Esteves asked the maker of the motion if he could amend the motion to focus on the staff recommendation and the items in the memo could be considered by the Commission and then come back to the Council.

Vice Mayor Gomez restated the motion to approve the staff recommendation along with the items listed in the memo with the exception of item 1 (the \$1 million threshold) that would be deferred for three years.

VOTE ON MOTION: Ayes: 2 Noes: 3 (Esteves, Gomez, Polanski)

MOTION to accept the Public Arts Policy funding recommendation as listed in the agenda, and eliminate the \$1 million threshold; however, putting in language that it would be reviewed in three years or a certain number/period of time, and to include that the City and Redevelopment Agency would establish a Public Arts Committee composed of the membership at the Milpitas Arts Commission and four members of the Milpitas Alliance for the Arts or its successor non-profit organization.

Mayor Esteves noted Councilmember Polanski forgot to mention the 1.5% - applying the 1.5 formula. Councilmember Polanski said that was part of the staff recommendation - the four items listed; the 1.5% as outlined in the four items in the agenda.

M/S: Polanski, Esteves.

Councilmember Livengood said his issue with the motion was that there's a lot of information and a lot of suggestions in the memo he thought were appropriate and he wanted to have some indication that these issues were going to get discussed, dealt with, and brought back to the Council.

Councilmember Polanski said she had no objection, thought all the recommendations should go to the Milpitas Arts Commission for review, discussion, and then come back with recommendations and discussion to the full Council.

Councilmember Livengood inquired if that was part of her motion. Councilmember Polanski responded, yes, she would make that part of her motion. Councilmember Livengood, addressing the threshold issue - the motion he supported before was a little different than Councilmember Polanski's motion; the motion he supported before was that the threshold would become effective three years from the date of the approval. Councilmember Livengood asked if what was being said was to review it in three years. Councilmember Polanski said she thought that was the intent of what Vice Mayor Gomez had said in his motion. Mayor Esteves said that was his understanding too; his point was that it should not be an issue because at that point of time, any Councilmember could call for a review. Councilmember Polanski suggested maybe what would be appropriate for this motion to move this forward this evening was that this would come back to - for full discussion - if the threshold should be reviewed in 2-3 years or it should become effective in three years; she had no objection in reviewing it in that way. Mayor Esteves said that that issue would come back.

VOTE ON MOTION: Ayes: 3 Noes: 2 (Giordano, Gomez)

**\*RA7.  
AFFORDABLE HOUSING  
(FAIRFIELD DEVELOPMENT)**

Approved authorization to enter into negotiations with Fairfield Development L.P. to provide Agency Finance Assistance from its 20% Affordable Housing set-aside funds.

**RA8.  
ADJOURNMENT**

There being no further Redevelopment Agency business, Mayor Esteves adjourned the Redevelopment Agency meeting at 9:23 p.m.

The City Council meeting continued.

**RECESS**

Mayor Esteves recessed the City Council meeting at 9:24 p.m. The City Council meeting reconvened at 9:35 p.m.

**REPORTS OF OFFICERS & BOARDS**

2. Mayor Esteves placed this item on the agenda and invited Trudi Burney to the podium.

**Wildlife Center of  
Silicon Valley**

Trudi Burney, Director of City Relations, Wildlife Center of Silicon Valley, expressed appreciation to the City for supporting the Wildlife Center since it started in 1999. Ms. Burney said they were the only ones to provide rehabilitation of sick and injured wild animals for cities. Ms. Burney presented an overview of their services to Milpitas during 2004 with respect to impound, phone support, and education/outreach programs and reviewed their income and expenses. Ms. Burney challenged Milpitas to expand awareness through education and outreach to its residents and reported that continuation of their contract would include no increase in fees but they were instead looking for in-kind donations of services and supplies.

Mayor Esteves thanked Ms. Burney for coming and apologized for having to postpone her presentation a couple of times.

Councilmember Polanski inquired if there were way the City could assist by putting information on the City's web site. Ms. Burney said it would be helpful if she could be given contacts with community groups. Councilmember Polanski suggested the Chamber of Commerce and representatives were present in the audience.

**4.  
Library Ballot Measure**

Principal Analyst Cindy Maxwell reported this item was continued from the February 15, 2005, meeting so the discussion could occur after the March 8, 2005, School District ballot measure; the first measure would replace the existing parcel tax with an identical parcel tax for another ten years; the second measure would add another \$12 to the parcel tax and would take effect only if the first measure was approved; both measures require a two-thirds voter approval to pass; and Melinda Cervantes, the County Librarian, was present to answer questions.

Councilmember Polanski commented that while nobody likes to talk about taxes, one of the reasons she wanted to bring this item forward was because of the importance of the library to Milpitas. Councilmember Polanski further commented that this election would be unique in that it will be a mailed ballot, which was a new way to vote, and asked the County Librarian to explain.

County Librarian Melinda Cervantes explained this would be the first mailed vote in Santa Clara County of this size and was possible because of recent changes to the State Election law; ballots would be mailed on April 4, voters will have approximately 28 days to return their ballots by mail or deliver directly to the County Registrar of Voters Office on Berger Drive, and the election will close on May 3 at 8:00 p.m.

Councilmember Polanski said she had already endorsed these measures as a private citizen because she believed strongly in the library and especially what the Milpitas Library has done as one of the busiest in the County; both measures were something she thought the Council should support, and that was why she asked that it be on the agenda.

Councilmember Giordano said she was a sitting member of the Joint Powers Authority when the vote was taken to put this on the ballot; it was a unanimous vote and she voted to put it on the ballot because she felt it important that the voters be able to decide; however, having it now come to the local level, she felt it important to look at what the issues are. Councilmember Giordano further stated she would not be supporting it as she philosophically had an issue with the unfairness of a parcel tax, she had systematically expressed that and it was not new; she was concerned that the City was building a new library and concerned about not having any analysis from staff or any look at what the dollars might be if the City was to fund it (depart from the JPA), and she would like to see that; she thought the measure may be viewed as an extension but to her, it was still a new tax; she would prefer to have more information to be able to decide and make a judgment whether this was appropriate or if there was some other process that could be used to provide the same level of service, if not a better level of service to Milpitas.

Councilmember Livengood said he was fine with the concept even though he had reservations about a parcel tax but requested that the item be bifurcated; he was willing to support a continuation of the parcel tax already on the books (Measure A), but he would not support Measure B, which was an increase in taxes and when the time came for a vote, he could support one but not both. Councilmember Livengood commented that Milpitas participates in the JPA and had flirted with the possibility of going on its own and he thought it was worth looking at again, especially when the City was building a new library; he had made his displeasure known when the JPA forced Milpitas to close the library on Mondays and did not allow Milpitas to make up the difference as had been done in the past.

County Librarian Cervantes commented that ten years ago, the reason the Board of Supervisors introduced the concept of parcel tax was because the cities, counties, and special districts, for the purposes of the Education Revenue Augmentation Fund, lost 44% of operating budgets; a significant sum of local property taxes earmarked for the library are sent to the State every year and to date, \$10.7 million has been sent to Sacramento to support programs other than the library; and there would be no reason for parcel taxes at all had those monies remained. Ms. Cervantes clarified that single-family properties with Measure A would pay \$33.66; however, multi-family properties are charged \$16.83 per unit and non-retail vacant land and other types of properties are charged by the acre. Ms. Cervantes also addressed the closing of the libraries on Mondays explaining that if cities had wanted to provide funding that would have only funded positions that eventually would have to be let go if the measures fail.

Mayor Esteves thanked Ms. Cervantes for coming and said he had always been supportive of the library because it impacts hundreds of children and residents; as a property owner, he thought it was critical to support the measures and he hoped they would be successful.

MOTION to adopt Resolution No. 7507 supporting the Santa Clara County Library District JPA May 2005 Tax Measure A (replacing the existing parcel tax with an identical parcel tax for 10 years).

M/S: Polanski, Livengood. Ayes: 3 Noes: 2 (Giordano, Gomez)

MOTION to support the Santa Clara County Library District JPA May 2005 Tax Measure B (an additional \$12 parcel tax).

M/S: Polanski, Esteves. Ayes: 2 Noes: 3 (Giordano, Gomez, Livengood)

It was noted the motion failed.

## **5. Chamber of Commerce Space Needs**

Principal Analyst Maxwell reported that as requested by the Council, the Economic Development Commission formed a Task Force to study the Chamber of Commerce's location needs and their report was included in the Council's agenda packets; also included this evening was an updated and revised cover memo from the Task Force Chair, and Mr. Peoples was in the audience, along with representatives of the Chamber. Ms. Maxwell further reported the Commission looked at the report for a second time last night and recommended for the short term that the City assist the Chamber in pursuing outside financial resources in order to afford a quality location; one thought was to contract with the Chamber to act as the City's Visitor Bureau; and for the long term that the Chamber occupy a City-owned facility with minimum rent, specifically referring to the West Parking Garage to be built on Main Street. Ms. Maxwell noted that the Chamber did deliver a letter budget request that would be brought to the Council, which was a change from previous years, as they would be asking for some new changes, including support for a Visitors Bureau.

Don Peoples, member of the Economic Development Commission, said the purpose of the Task Force was to provide input to the EDC; the Milpitas Chamber of Commerce had served the community in a lot of ways and shared his first experience with the Chamber. Mr. Peoples further stated the real challenge for the Chamber was developing an income stream for a quality home; their basic requirements were that it be accessible to small business and the

public and the public can find them; the real problem was that rents were beyond what they were used to paying; they looked at various options and came up with three: one, that the Chamber occupy surplus property at discounted rents; two, somehow for them to receive more money to afford a quality location; and the third option was to occupy a city-owned facility with minimal rent. Mr. Peoples said what they really wanted to recommend was that the City consider contracting with the Chamber to perform the function of a Visitors Bureau and other possible tasks that would be of value to the City; if this could be accomplished to mutual benefit, the Chamber should be able to afford a quality permanent home.

Mayor Esteves said he really liked the idea of not just giving them funds but having them provide a service that would be needed and of mutual benefit; he thought the suggestions were great and the City would not be just giving away money.

Councilmember Polanski thanked the Commission and the Chamber for getting together and reviewing this; she thought the ideas were good but thought the appropriate way to address it was through the budget process; over the short term, she didn't think the City would be able to be much assistance because of the economy but maybe down the road; and this was something the Council would need to review in the budget process to see if it was doable but not necessarily in the near future.

Mayor Esteves inquired if the Chamber planned to come back with a budget proposal to quantify this proposal. Ms. Maxwell responded the Chamber had already submitted a budget request and because it was significantly different in nature and size than in the past, staff would be bringing it to the Council in April for direction before the budget hearings.

Councilmember Giordano suggested the Chamber may want to come up with some ideas to address with the Economic Development Manager and maybe the Chamber could take a more active role in economic development in the community; this was just one area that the Chamber may want to address with the new Manager and how the bureau might stimulate some type of business exposure or community exposure to the Chamber; and encouraged the Chamber to bring that forward.

Vice Mayor Gomez inquired if this (Visitors Bureau) fit anywhere into the Economic Development Plan coming up. Ms. Maxwell responded it perhaps fit in with the first goal to improve the image of the City.

Councilmember Livengood said he was not going to make any decisions long term for the Chamber tonight and suggested noting receipt of the information and seeing what the budget request was for this year; the long term issues would require more discussion and detail than he had seen so far.

Tom Valore said they did send forward acceptance of a lease arrangement for a facility that would forestall any financial issues for four years; they would be signing a four-year lease at a rate that was affordable and wouldn't significantly increase for the next four years; they had four years to find a more permanent solution; he was concerned that when that expires, they would have to go to a market environment and the rent could be more than twice what they are going to be paying. Mr. Valore further stated the budget request was intended to market the Chamber as a Visitors Bureau to be compensated for services they are already performing; they attempted to recognize that in the budget request, which they hadn't done before; and if the intent was to formalize that role, he thought it would have to grow a bit from what was included in the budget request at this point.

MOTION to receive the information as presented and wait for the budget request for 2005, then take a look at the long-term issue the Chamber will be faced with four years out.

M/S: Livengood, Polanski.

Ayes: 5

## **UNFINISHED BUSINESS**



**18.  
Classification Plan  
Amendment**

Human Resources Director Cherie Rosenquist reported recently staff conducted a salary survey for the Economic Development Manager position; as a result, staff was recommending a salary increase for this position through an amendment to the Classification Plan; in addition, it was being recommended that the position be taken out of the current mid-management bargaining unit and placing it in the senior management group; and staff was also asking for an appropriation for the two remaining months of the fiscal year that it was anticipated the position would be filled.

Mayor Esteves expressed concern that one of the selling points for this position was that the salary was lower and would result in savings; however, it looked like the savings were not that abundant. Acting City Manager Lawson responded it still was about \$40,000 less than the position that was talked about.

Councilmember Polanski said she removed this item from the Consent Calendar at the previous meeting and one of the reason was what the Mayor had stated; when the Council discussed hiring an Economic Development Manager, one of the areas talked about was all the savings; when she saw this on the Consent Calendar (at the last meeting), there was a salary range with an appropriation of \$27,000 and she thought it important for the public to be aware of that because there had been a lot of discussion about savings.

MOTION to

1. Adopt Resolution No. 7508 amending the Classification Plan to modify the salary range for the Economic Development Manager to an annual salary range of \$107,942 - \$131,205 and be placed in the unrepresented, except senior management group;
2. Approve a budget appropriation of \$26,906 from the Redevelopment Agency Fund balance for fiscal year 2004-05.

M/S: Polanski, Gomez.

Mayor Esteves said he would rather be hiring another position but since it was decided to hire an Economic Development Manager, he wanted to do it right and would be supporting the motion.

VOTE ON MOTION:

Ayes: 5

**7.  
Commission  
Outreach Program**

Acting City Manager Lawson reported at the March 1, 2005, Council meeting, Councilmember Giordano requested a report back on the progress made on the expanded outreach program to encourage more residents to apply for appointment to City Commissions. Mr. Lawson responded that since the last meeting, staff had printed a list of Commission openings on the Council agenda, the Mayor had publicly announced the openings, an announcement was included on Channel 15, an announcement was placed on the electronic message board (on Calaveras), and an article was written for the next City newsletter. Mr. Lawson also reviewed several items staff was working on.

Councilmember Giordano commented that she had been doing her own outreach and had appeared on the local high school channel newscast to the students encouraging applications for the Youth Advisory Commission. Councilmember Giordano asked if the message board was being used at the Sports Center. City Clerk Gail Blalock responded she couldn't answer that for sure, however, the Recreation staff was responsible for the message board on Calaveras, so they may have also included the message at the Sports Center.

Councilmember Giordano inquired about the timeline for including a message on utility bills. Ms. Blalock responded that in looking into it, she learned that an insert may be possible at little cost instead of just a 70 or 90 character message, and she would like to pursue that.

MOTION to receive the report.

M/S: Gomez, Giordano.

Ayes: 5

**8.  
Final Ethics Project Report**

Deferred this item to a future Council agenda.

**NEW BUSINESS**

**9.  
Anticipated General Plan  
Amendments**

Planning Manager James Lindsay reported staff was considering four City initiated amendments to the General Plan that included Housing Opportunity Sites, Method of Calculating Residential Density, Community Warning Systems, and Storm Water Quality. Mr. Lindsay said staff was seeking direction from the Council to start the public process to amend the General Plan on the four elements.

Mayor Giordano inquired if this was a new process and how did it begin. Mr. Lindsay responded it was something new for several reasons; the policy stated within the Housing Element talks about encouraging and working with property owners in rezoning these properties; also being considered were a number of other City-initiated amendments, which was unusual in that the staff was usually very reactive to the development community but in this case, staff was suggesting making changes to some existing policies; staff was seeking some Council direction before starting the public process. Councilmember Giordano expressed concern that the way it was beginning might influence or may create in the public's view or intimidate them to come forward with their opinions, and she didn't want to see that happened and was hesitant to proceed in this fashion.

Councilmember Livengood said he was also a little concerned about this and would rather that the land owner or developer would come forward on their own; he didn't want the City to assume some costs for some developers and not others (he wanted it to be fair), and he would feel more comfortable pursuing the traditional way of handling General Plan Amendments.

Mayor Esteves commented that when a property owner presents a project, there is room for negotiation for something that may benefit the City as well.

MOTION to note receipt and file.

M/S: Polanski, Gomez.

Ayes: 5

Vice Mayor Gomez noted it was coming on 11:00 p.m. and if only one more item was to be heard, he would request that it be item 11.

Councilmember Livengood left the dais at 11:00 p.m.

**11.  
Concept Design  
Interpretive Historical  
Display (O'Toole Elms)**

Councilmember Polanski removed this item from the Consent Calendar at the previous (March 1, 2005) Council meeting.

Assistant Planner Troy Fujimoto said that given the lateness of the hour, staff was available to answer questions.

Councilmember Polanski expressed concern that she had never seen Concept D before; Concepts A, B, and C were in her agenda packet but "D" was received this evening, the public hadn't reviewed "D", and only the Parks, Recreation, and Cultural Resources Commission saw it last night. Councilmember Polanski said it would be very difficult for her, at 11:00 p.m. when she hadn't had an opportunity to review the data presented to her at 6:00 p.m. tonight, to make an informed decision.

Acting City Manager Lawson said staff could re-agendize this item and place it on the early part of the agenda.

Senior Planner Dennis Carrington clarified what was presented to the Parks, Recreation, and Cultural Resources Commission (PRCRC) were Concepts A, B, and C, and it was his

understanding that D enjoyed elements of all three; and staff would be happy to bring it back. Planning Manager James Lindsay added that it illustrated the comments received during the PRCRC meeting.

Mayor Esteves asked if the PRCRC had a recommendation. Mr. Lindsay responded no.

**10.  
Water Resources  
Protection Collaborative**

Contract Engineer Mike McNeely presented a status report on the County-wide Water Resources Collaborative, formed in January 2003 after the Santa Clara Valley Water District proposed amendments to its Ordinance 83-2 that would have expanded the District's land use permitting authority, including increasing the District's jurisdiction adjacent to creeks from the existing 50 ft. to 150 ft. Mr. McNeely reported he and Acting Planning Director Heyden were representing Milpitas on the Collaborative. Mr. McNeely reviewed key results thus far, reported that a Memorandum of Consensus was adopted by all the governing bodies, and reviewed the next steps to be taken and the major issues to be resolved.

MOTION to note receipt and file the report.

M/S: Gomez, Polanski.

Ayes: 4

Absent: 1 (Livengood)

**17.  
Ordinance No. 262.1**

This item was removed from the Consent Calendar but was not discussed; the item was continued to the April 5, 2005, Council agenda.

**ADJOURNMENT**

There being no further Council business, Mayor Esteves adjourned the City Council meeting at 11:13 p.m. in memory and honor of Milpitas Police Officer Steven Thompson.

Gail Blalock  
City Clerk

**The foregoing minutes were approved by the City Council as submitted on  
April 5, 2005.**

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**Gail Blalock  
City Clerk**

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**Date**